IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION.

Suit No. 1162 of 1986.

Farokh M. Khambatta.

..Plaintiff.

Versus.

Rizvi Nanavati and Assocate and Ors. ..Defendants.

None for the Plaintiff
Mr. M.J. Shetty for defendants.

CORAM: V.C. DAGA J.
DATED: 20.01.2006.

P.C.:-

. None for the plaintiff.

. Shri.M.J. Shetty for defendants.

. Shri.M.J.Shetty appearing for the defendants, submits that since nobody was present on behalf of either of the party, on 23.12.2005 instead of dismissing the suit this Court sought to proceed exparte against the defendants. In turn, plaintiffs were directed to file affidavit of evidence and documents alongwith compilation of documents.

. The learned counsel for the defendants submits that the suit claim has already been settled out of the Court and in support of the submission he tried to rely upon the Minutes of the Consent Terms dated 10/6/1988. Xerox copy of which is taken on record. He thus submits that the cause of action for the suit does not survive.

. Since the defendants were absent and they are proceeded exparte, at this stage, I do not propose to accept any statement made by the defendants. However, facts remain that as on today nobody is appearing on behalf of the plaintiff. No documents are filed in support of the claim. No evidence has been produced to prove the suit claim.

. In this view of the matter, suit is liable to be dismissed for want of prosecution. Accordingly suit stands dismissed in default with no order as to costs.

. In the event, plaintiff decides to apply for restoration of the suit, it will be obligatory on his part to show how cause of action for the suit survives.

V.C.DAGA.J.